

a Sunday, the three-month extension effectively covers the next business day August 4, 2003. Accordingly, this Response is timely filed. The Examiner is respectfully requested to reconsider the remaining claims in view of the following remarks.

### **REMARKS**

In the present application, claims 1-6 and 23-27 are allowed. Claims 7-9, 11, 13, 15-22, and 28 are rejected. Claims 10, 12, and 14 are objected to. No claims have been cancelled or added.

#### **I. Rejections Under 35 U.S.C. § 102(e)**

Claims 7-9, 11, 13, 15-21 and 28 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,045,691 to McDermott ("McDermott"). In particular, the Examiner states that "McDermott discloses a catch basin filtration system comprising a filter body, seen as troughs (4), dimensioned to fit within an inlet and obstructing at least a portion of the inlet, and one or more fluid displaceable adsorbent containers with the filter body, seen as sock (2) and bag (3) in Fig. 2." *See* Office Action dated February 2, 2003 at page 2. Applicant respectfully submits that McDermott fails to anticipate the cited claims.

In order to anticipate a claim, a reference must include every material element of that claim. Independent claims 7, 16, and 28 recite, *inter alia*, "... a filter body dimensioned to fit within an inlet and forming a trough obstructing at least portion of said inlet." The "troughs (4)" disclosed in McDermott are distinguishable from the filter body described and claimed in the present application. Rather than a filter body, McDermott

discloses impermeable “troughs (4)” that support an adsorbent sock and direct water. First, in the specification McDermott explicitly states that “... my invention have a plurality of troughs that are *impermeable* to water.” *See* McDermott at column 3, line 55 (emphasis added). Then, this impermeable trough is again disclosed in the claims of McDermott. *See* McDermott at independent claim 1 (reciting “... said plurality of troughs having an open top and adjacent open ends, and having a bottom and two side which are *impermeable* to water.”) (emphasis added). Additionally, McDermott describes “troughs” that “*support* an absorbent sock and *directs* water to openings between the troughs where the storm water discharges into a semi-permeable bag.” *See* McDermott at Abstract (emphasis added). This disclosure of “troughs” in McDermott does not include a filter body as described and claimed in the present application.

Further, McDermott’s “troughs” are clearly not designed as being a filter body as contemplated by the present invention. McDermott suggests a support frame to attach a bag, rather than a filter body as described and claimed in the present application. Specifically, McDermott states that “[i]t is the purpose of this structure to provide a support mechanism for an absorbent socks and semi-permeable bags.” *See* McDermott at column 4, lines 29-30; *see also* McDermott at column 4, lines 54-55 (stating “another purpose of the apparatus is to provide a frame to attach a bag”); McDermott at column 5, line 46 (stating “[m]y invention provides a support frame...”). Figure 3 and the specification in McDermott also show an impermeable trough holding an adsorbent sock, while the present invention describes a filter body where “one purpose of the filter body is to capture and substantially retain material carried by a fluid... while letting the fluid itself pass through.” *See* Specification of the present application at page 7, lines 8-10. In

view of this disclosure, McDermott's "trough" is distinguishable from the filter body of the present invention.

For at least the foregoing reasons, Applicant respectfully submits that McDermott fails to anticipate independent claims 7, 16, and 28. Since claims 8-9, 11, 13, and 15 depend from independent claim 7 and claims 17-21 depend from independent claim 16, McDermott also fails to anticipate these dependent claims for at least the same reasons. Accordingly, it is respectfully requested that the Examiner withdraw the rejections for claims 7-9, 11, 13, 15-21, and 28.

## **II. Rejection Under 35 U.S.C. § 103(a)**

Claim 22 stands rejected under § 103(a) as being unpatentable over McDermott. In particular, the Examiner points to the holes disclosed in McDermott and states that "[i]t would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the attachment of the bag of McDermott in the holes to also utilize clips, snaps, loops, or VELCRO..." *See* Office Action dated February 3, 2003 at page 4. The Applicant respectfully submits that the Office Action fails to set forth a prima facie case of obviousness.

The Office Action fails to set forth the suggestion or motivation to make the modification advanced as the basis for the obviousness rejection. Absent some suggestion in the art, there is no support for the rejection advanced. Applicant respectfully submits that McDermott, in fact, teaches away from attachment of the adsorbent container to a filter body through the claimed attaching means. Specifically, McDermott states in its specification "my invention slips into any storm sewer opening

without the need for fasteners or involving any complicated installation.” See  
McDermott at column 6, line 3.

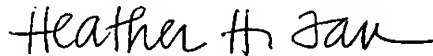
Thus, there is no suggestion in McDermott to make the modification suggested in  
the Office Action. Therefore claim 22 is patentable over McDermott for at least the  
foregoing reasons. Accordingly, it is respectfully requested that the Examiner withdraw  
this rejection.

### CONCLUSION

Applicant respectfully submits that all claims are in proper form and condition for  
patentability, and requests a notification of allowance to that effect. It is believed that no  
fee is due at this time. Should any fee be required for any reason related to this  
document, however, the Commissioner is hereby authorized to charge said fee to Deposit  
Account No. 08-3038, referencing Docket No. 11533.0012.CNUS06.

Respectfully Submitted,

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